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SIPDIS

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DEPT PLEASE PASS TO USTR JCHOE-GROVES, LERRION, LOC STEPP  
DOC JBOGER, SSAVICH

SENSITIVE

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TAGS: [ECON](#) [ETRD](#) [KIPR](#) [BU](#)

SUBJECT: 2005 SPECIAL 301 REVIEW - BULGARIA

11. (SBU) SUMMARY: Based on the amount of pirated goods flowing through Bulgaria and the lack of necessary government action despite repeated prodding by all levels of the embassy and industry, we feel that this government lacks seriousness in addressing intellectual property rights (IPR) violations.

12. (SBU) RECOMMENDATION: Move Bulgaria up to Priority Watch List, with a sharply worded warning to improve conditions, and provide USG and private sector resources to help improve the situation. END SUMMARY.

13. (SBU) In our opinion the situation of pirated Optical Disk Media (ODM) and counterfeit spirits has gotten worse in recent months, and government efforts to improve the environment are limited. On-the-ground enforcement by Customs and Tax police seems to be slowly improving, but is severely limited by lack of resources and training. Because of loopholes in the law, street vendors do not appear to fear regular police. Downloading pirated goods off internet sites continues unimpeded. Prosecutors and judges continue to fail to punish the most egregious violators of the existing law, while legislation to improve the regime is stalled and the government and parliament are pointing fingers at each other. Overall cooperation between agencies is virtually non-existent, and the government's overall tone is more defensive and less responsive than ever. Beyond the obligatory rhetoric in support of IPR, there is no strong leadership commitment to address the issue here.

14. (U) Following is our analysis of the key areas of consideration and suggestions for tackling the problem.

PIRATED GOODS INCREASING IN THE STREETS, HOMES AND CAFES

15. (SBU) It is impossible to quantify the amount of pirated OPM on the streets, but a walking tour gives the impression there are more vendors selling greater numbers of pirated goods without fear of arrest than there have been in previous years. The increase is most dramatic when compared to 1999-2000, when the USG dropped Bulgaria from the list due to its successful measures to shut down IPR crime. Even the current government privately agrees that organized crime stands behind the vendors and producers, and is a major area of concern. Most popular CDs, DVDs, games, and software can be easily purchased at several spots in the central business area for low prices. Perhaps more disturbing is the proliferation of internet cafes where illegal material is downloaded directly off the internet. This practice is increasingly happening in homes. Disinterested parties and industry's forensic evidence also indicate that pirate facilities are operating once again in Bulgaria. As far as American spirits are concerned, we can assume that only the largest international stores are carrying legitimate bourbon.

GOVERNMENT'S EFFORTS ARE MIXED

16. (SBU) Ironically, the meager efforts to rein in IPR violations are coming from the working -- rather than the political -- level of government. The Ministry of Finance's Customs and Tax Police appear to be slightly more aggressive in their efforts to identify and seize pirated and smuggled ODM and counterfeit bottles and molds, but have not succeeded in stemming their proliferation. Municipal police and Ministry of Culture inspectors, however, do not seem to be working sufficiently to enforce the laws -- although the police have stepped up efforts somewhat against counterfeit spirits. Neither the Ministries of Economy and Culture, nor the Parliament is taking the responsibility for pushing the stalled legislation through.

17. (SBU) The GOB abolished its inter-ministerial cabinet-level council for IPR issues in 2002, and the replacement, an expert council headed by the Ministry of Culture, has proved ineffectual. The lack of overall coordination between agencies is perhaps the biggest reason piracy has surged in the past 5-6 years. In addition, the Ministries'

failure to engage substantively in response to -- and in some cases even to respond to -- the Ambassador's letters on IPR issues indicates to us a lack of seriousness in addressing the issue.

#### POLITICAL/STRATEGIC ISSUES

18. (SBU) Bulgaria is a close ally with troops in Iraq and Afghanistan. The government already feels we do not do enough to appreciate them, and bumping them up to Priority Watch list would likely be perceived as a poke in the eye.

#### SUGGESTIONS FOR USG AND INDUSTRY

19. (U) IIPA and DISCUS make accurate criticisms and very good recommendations in their reports. We feel that in order to seriously address the problem here it is important for industry and the USG to provide more assistance and funding to help the GOB. Putting Bulgaria on the Watch List last year for first time in five years did not light a fire under the GOB, but perhaps a concerted effort by industry and the USG will improve the situation.

In addition to placing Bulgaria on the Priority Watch List, we recommend:

--ASSISTANCE IN SETTING UP AN INTER-AGENCY COUNCIL: Participate at a high-level -- Ambassador and/or Washington official -- in an EU sponsored seminar in Sofia in April to improve coordination between the various institutions (Ministry of Justice, Ministry of Interior, Ministry of Culture, Customs Agency, Patent Office and industry.) We could propose and offer to fund the resumption of the inter-governmental council led by either the Ministry of Interior or Finance, and provide training in how the U.S. inter-agency process functions, and how industry plays a role in the enforcement process;

--TRAINING: for judges, prosecutors, inspectors, police;

--FINANCE/GRANTS: to establish mobile teams, which will combine officials from the Customs Agency, Ministry of Culture, Tax Administration and Police;

--TECHNICAL ASSISTANCE: Software and hardware to build a database for rights registration;

--INTERPOL COOPERATION: Assistance from the USG and Interpol's newly established counterfeit task force; and

--PUBLIC AWARENESS CAMPAIGN: Public advertising, posters, TV and radio ads showing how harmful counterfeited products such as alcohol could be to consumers; how organized crime benefits from illegal purchases; and how people who purchase illegal CDs are in effect stealing from up-and-coming entertainers. Industry could do this easily through public service messages in coordination with the GOB.

110. (SBU) COMMENT: Bulgarian officials do not give sufficient priority to resolving IPR violations. In the context of other economic issues in Bulgaria and the level of violations in other countries, the government is not taking important measures to resolve IPR issues. Hopefully, moving Bulgaria to the Priority Watch List will generate a change in attitude. END COMMENT